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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,550	11/25/2003	Suen Ching Yan	03-12538	9734

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EXAMINER

HANEY, RICHALE LEE

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

87

Office Action Summary	Application No. 10/723,550	Applicant(s) YAN, SUEN CHING	
	Examiner Richale L. Haney	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 11/25/2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. Applicant failed to submit copies of foreign patent documents.

Specification

2. The disclosure is objected to because of the following informalities: section headlines are underlined.
3. Appropriate correction is required. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: Ponytail Cap Having Elastic Sweatband and Ribbons.

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a visor that has a generally circular radius and a U-shaped recess, wherein U-shaped recess is obliquely coupled to the lower peripheral edge of the body must be

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shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 – 5, 7 – 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park (6,446,266) in view of Durdola (D 380,887). Park shows all of the claimed invention except a first and a second ribbon coupled to opposite ends of the inverted U-shaped opening and a body comprising of six gores. Durdola teaches a hat comprised of six gores (Figure 3), which includes a first and second ribbon coupled to opposite ends of the inverted U-shaped opening (Figure 1 & 3). It would have been obvious to one of ordinary skill in the art at the time of invention was made to modify Park by incorporating a first and second ribbon and a six gore body as taught by Durdola to increase the aesthetics and also to obtain a more secure fit for the wearer by adjusting the length of the ribbons to accommodate various head sizes.

The modified device of Park does not expressly disclose the vision of a first and second ribbon being of the same color as the cap's visor; however, the use of the same or different colors for the various parts of a cap are nothing more than design choice and any color combination would have been understood for aesthetic reasons. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have made Park's visor, first and second ribbons out of the same color since this is nothing more than a simple choice of design not affecting the structure of the cap.

8. Claims 6, 11, 13 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park in view of Durdola as applied to claims 1 – 5, 7 – 10, and 12 above, and further in view of Woehl (5,119,514). The modified device of Park

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discloses all of the claimed invention except for a body formed from unilaterally stretchable fabric and a visor that has a generally circular outer radius and a U-shaped recess, wherein the U-shaped recess is obliquely coupled to the lower peripheral edge of the body. Woehl teaches a body formed of unilaterally stretchable fabric (Column 2, lines 34-38). It is noted that the claim does not read the entire body must be made from unilaterally stretchable material. Woehl also teaches a visor, which has a generally circular outer radius and a U-shaped recess obliquely coupled to the lower peripheral edge. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Park and Durdola by utilizing fabric with a unilateral stretch to form the body and to modify the shape of the visor from oval to circular as taught by Woehl in order to obtain an appropriate fit for the wearers head and protection from sunlight.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Marrs (D 396,546) shows the visor and the first and second ribbons comprised of the same color.

Leopold (5,170,509) teaches an oval visor coupled to the lower peripheral edge of the body.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richale L. Haney whose telephone number is 571-272-8689. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richale L. Haney
Patent Examiner
Art Unit 3765
June 20, 2005

RLH


JOHN D. CALVERT
SUPERVISORY PATENT EXAMINER
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